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7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 LUZ ZENDEJAS,

12 Plaintiff,

13 vs.

14
15 4S CORPORATION D/B/A VALLEY
16 CAR WASH; SHOUHED BROTHERS, A
17 CALIFORNIA GENERAL
18 PARTNERSHIP; and DOES 1 to 10,
Defendants.

Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR DENIAL
OF CIVIL RIGHTS OF A DISABLED
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;

2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT;

3. CALIFORNIA'S DISABLED
PERSONS ACT;

4. CALIFORNIA HEALTH & SAFETY
CODE;

5. NEGLIGENCE

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25 Plaintiff LUZ ZENDEJAS ("Plaintiff") complains of Defendants 4S
26 CORPORATION D/B/A VALLEY CAR WASH; SHOUHED BROTHERS, A
27 CALIFORNIA GENERAL PARTNERSHIP; and DOES 1 to 10 ("Defendants") and
28 alleges as follows:

PARTIES

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2 1. Plaintiff is a California resident with a physical disability. Plaintiff is
3 diagnosed with multiple sclerosis which resulted in nerve damage and is substantially
4 limited in her ability to walk. Plaintiff requires the use of a wheelchair at all times when
5 traveling in public.

6 2. Defendants are, or were at the time of the incident, the real property owners,
7 business operators, lessors and/or lessees of the real property for a car wash ("Business")
8 located at or about 7530 Van Nuys Blvd., Van Nuys, California.

9 3. The true names and capacities, whether individual, corporate, associate or
10 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,
11 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
12 Court to amend this Complaint when the true names and capacities have been
13 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such
14 fictitiously named Defendants are responsible in some manner, and therefore, liable to
15 Plaintiff for the acts herein alleged.

16 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant
17 times, each of the Defendants was the agent, employee, or alter-ego of each of the other
18 Defendants, and/or was acting in concert with each of the other Defendants, and in doing
19 the things alleged herein was acting with the knowledge and consent of the other
20 Defendants and within the course and scope of such agency or employment relationship.

21 5. Whenever and wherever reference is made in this Complaint to any act or
22 failure to act by a defendant or Defendants, such allegations and references shall also be
23 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
24 and severally.

JURISDICTION AND VENUE

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26 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and
27 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*
28 *seq.*).

8. Plaintiff's claims are authorized by 28 USC §§ 2201 and 2202.

FACTUAL ALLEGATIONS

11. The Business is a car wash business establishment, open to the public, and is a place of public accommodation that affects commerce through its operation. Defendants have provided adequate parking spaces for customers.

13. To the extent of Plaintiff's personal knowledge, the barriers at the Business included, but were not limited to, the following:

b. Defendants failed to comply with the federal and state standards for the parking space designated for persons with disabilities. Defendants failed to post required signage such as “Van Accessible,” “Minimum Fine \$250” and “Unauthorized Parking.”

1 patronize the Business; however, Plaintiff is deterred from visiting the Business because
 2 her knowledge of these violations prevents her from returning until the barriers are
 3 removed.

4 15. Based on the violations, Plaintiff alleges, on information and belief, that
 5 there are additional barriers to accessibility at the Business after further site inspection.
 6 Plaintiff seeks to have all barriers related to her disability remedied. *See Doran v. 7-
 7 Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

8 16. In addition, Plaintiff alleges, on information and belief, that Defendants
 9 knew that particular barriers render the Business inaccessible, violate state and federal
 10 law, and interfere with access for the physically disabled.

11 17. At all relevant times, Defendants had and still have control and dominion
 12 over the conditions at this location and had and still have the financial resources to
 13 remove these barriers without much difficulty or expenses to make the Business
 14 accessible to the physically disabled in compliance with ADDAG and Title 24
 15 regulations. Defendants have not removed such barriers and have not modified the
 16 Business to conform to accessibility regulations.

17 **FIRST CAUSE OF ACTION**

18 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

19 18. Plaintiff incorporates by reference each of the allegations in all prior
 20 paragraphs in this complaint.

21 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
 22 shall be discriminated against on the basis of disability in the full and equal enjoyment of
 23 the goods, services, facilities, privileges, advantages, or accommodations of any place of
 24 public accommodation by any person who owns, leases, or leases to, or operates a place
 25 of public accommodation. *See* 42 U.S.C. § 12182(a).

26 20. Discrimination, *inter alia*, includes:

- 27 a. A failure to make reasonable modification in policies, practices, or
 28 procedures, when such modifications are necessary to afford such

1 goods, services, facilities, privileges, advantages, or accommodations
2 to individuals with disabilities, unless the entity can demonstrate that
3 making such modifications would fundamentally alter the nature of
4 such goods, services, facilities, privileges, advantages, or
5 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

6 b. A failure to take such steps as may be necessary to ensure that no
7 individual with a disability is excluded, denied services, segregated or
8 otherwise treated differently than other individuals because of the
9 absence of auxiliary aids and services, unless the entity can
10 demonstrate that taking such steps would fundamentally alter the
11 nature of the good, service, facility, privilege, advantage, or
12 accommodation being offered or would result in an undue burden. 42
13 U.S.C. § 12182(b)(2)(A)(iii).

14 c. A failure to remove architectural barriers, and communication barriers
15 that are structural in nature, in existing facilities, and transportation
16 barriers in existing vehicles and rail passenger cars used by an
17 establishment for transporting individuals (not including barriers that
18 can only be removed through the retrofitting of vehicles or rail
19 passenger cars by the installation of a hydraulic or other lift), where
20 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

21 d. A failure to make alterations in such a manner that, to the maximum
22 extent feasible, the altered portions of the facility are readily
23 accessible to and usable by individuals with disabilities, including
24 individuals who use wheelchairs or to ensure that, to the maximum
25 extent feasible, the path of travel to the altered area and the
26 bathrooms, telephones, and drinking fountains serving the altered
27 area, are readily accessible to and usable by individuals with
28 disabilities where such alterations to the path or travel or the

1 bathrooms, telephones, and drinking fountains serving the altered area
2 are not disproportionate to the overall alterations in terms of cost and
3 scope. 42 U.S.C. § 12183(a)(2).

4 21. Where parking spaces are provided, accessible parking spaces shall be
5 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every
6 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in
7 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA
8 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall
9 be a van accessible parking space. 2010 ADA Standards § 208.2.4.

10 22. Under the ADA, the method and color of marking are to be addressed by
11 State or local laws or regulations. See 36 C.F.R., Part 1191. Under the California
12 Building Code (“CBC”), the parking space identification signs shall include the
13 International Symbol of Accessibility. Parking identification signs shall be reflectorized
14 with a minimum area of 70 square inches. Additional language or an additional sign
15 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A
16 parking space identification sign shall be permanently posted immediately adjacent and
17 visible from each parking space, shall be located with its centerline a maximum of 12
18 inches from the centerline of the parking space and may be posted on a wall at the
19 interior end of the parking space. See CBC § 11B-502.6, et seq.

20 23. Moreover, an additional sign shall be posted either in a conspicuous place at
21 each entrance to an off-street parking facility or immediately adjacent to on-site
22 accessible parking and visible from each parking space. The additional sign shall not be
23 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in
24 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in
25 designated accessible spaces not displaying distinguishing placards or special license
26 plates issued for persons with disabilities will be towed always at the owner’s expense...”
27 See CBC § 11B-502.8, et seq.

25. A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

27. The Business has denied and continues to deny full and equal access to Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be discriminated against due to the lack of accessible facilities, and therefore, seeks injunctive relief to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities.

VIOLATION OF THE UNRUH CIVIL RIGHTS ACT

29. California Civil Code § 51 states, “All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”

1 30. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,
2 or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable
3 for each and every offense for the actual damages, and any amount that may be
4 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
5 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
6 attorney’s fees that may be determined by the court in addition thereto, suffered by any
7 person denied the rights provided in Section 51, 51.5, or 51.6.

8 31. California Civil Code § 51(f) specifies, “a violation of the right of any
9 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
10 shall also constitute a violation of this section.”

11 32. The actions and omissions of Defendants alleged herein constitute a denial
12 of full and equal accommodation, advantages, facilities, privileges, or services by
13 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.
14 Defendants have discriminated against Plaintiff in violation of California Civil Code §§
15 51 and 52.

16 33. The violations of the Unruh Civil Rights Act caused Plaintiff to experience
17 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory
18 damages as specified in California Civil Code §55.56(a)-(c).

19 **THIRD CAUSE OF ACTION**

20 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

21 34. Plaintiff incorporates by reference each of the allegations in all prior
22 paragraphs in this complaint.

23 35. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be
24 entitled to full and equal access, as other members of the general public, to
25 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,
26 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,
27 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
28 of transportation (whether private, public, franchised, licensed, contracted, or otherwise

1 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
2 places of public accommodations, amusement, or resort, and other places in which the
3 general public is invited, subject only to the conditions and limitations established by
4 law, or state or federal regulation, and applicable alike to all persons.

5 36. California Civil Code § 54.3(a) states, “Any person or persons, firm or
6 corporation who denies or interferes with admittance to or enjoyment of public facilities
7 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an
8 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for
9 the actual damages, and any amount as may be determined by a jury, or a court sitting
10 without a jury, up to a maximum of three times the amount of actual damages but in no
11 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be
12 determined by the court in addition thereto, suffered by any person denied the rights
13 provided in Section 54, 54.1, and 54.2.

14 37. California Civil Code § 54(d) specifies, “a violation of the right of an
15 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
16 constitute a violation of this section, and nothing in this section shall be construed to limit
17 the access of any person in violation of that act.

18 38. The actions and omissions of Defendants alleged herein constitute a denial
19 of full and equal accommodation, advantages, and facilities by physically disabled
20 persons within the meaning of California Civil Code § 54. Defendants have
21 discriminated against Plaintiff in violation of California Civil Code § 54.

22 39. The violations of the California Disabled Persons Act caused Plaintiff to
23 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
24 statutory damages as specified in California Civil Code §55.56(a)-(c).

25 **FOURTH CAUSE OF ACTION**

26 **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

27 40. Plaintiff incorporates by reference each of the allegations in all prior
28 paragraphs in this complaint.

1 41. Plaintiff and other similar physically disabled persons who require the use of
2 a wheelchair are unable to use public facilities on a “full and equal” basis unless each
3 such facility is in compliance with the provisions of California Health & Safety Code §
4 19955 et seq. Plaintiff is a member of the public whose rights are protected by the
5 provisions of California Health & Safety Code § 19955 et seq.

6 42. The purpose of California Health & Safety Code § 1995 et seq. is to ensure
7 that public accommodations or facilities constructed in this state with private funds
8 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of
9 Title 1 of the Government Code. The code relating to such public accommodations also
10 require that “when sanitary facilities are made available for the public, clients, or
11 employees in these stations, centers, or buildings, they shall be made available for
12 persons with disabilities.

13 43. Title II of the ADA holds as a “general rule” that no individual shall be
14 discriminated against on the basis of disability in the full and equal enjoyment of goods
15 (or use), services, facilities, privileges, and accommodations offered by any person who
16 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).
17 Further, each and every violation of the ADA also constitutes a separate and distinct
18 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an
19 award of damages and injunctive relief pursuant to California law, including but not
20 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

21 **FIFTH CAUSE OF ACTION**

22 **NEGLIGENCE**

23 44. Plaintiff incorporates by reference each of the allegations in all prior
24 paragraphs in this complaint.

25 45. Defendants have a general duty and a duty under the ADA, Unruh Civil
26 Rights Act and California Disabled Persons Act to provide safe and accessible facilities
27 to the Plaintiff.
28

1 46. Defendants breached their duty of care by violating the provisions of ADA,
2 Unruh Civil Rights Act and California Disabled Persons Act.

3 47. As a direct and proximate result of Defendants' negligent conduct, Plaintiff
4 has suffered damages.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully prays for relief and judgment against
7 Defendants as follows:

8 1. For preliminary and permanent injunction directing Defendants to comply
9 with the Americans with Disability Act and the Unruh Civil Rights Act;

10 2. Award of all appropriate damages, including but not limited to statutory
11 damages, general damages and treble damages in amounts, according to proof;

12 3. Award of all reasonable restitution for Defendants' unfair competition
13 practices;

14 4. Reasonable attorney's fees, litigation expenses, and costs of suit in this
15 action;

16 5. Prejudgment interest pursuant to California Civil Code § 3291; and

17 6. Such other and further relief as the Court deems just and proper.

18 **DEMAND FOR TRIAL BY JURY**

19 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby
20 demands a trial by jury on all issues so triable.

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22 Dated: January 24, 2024

SO. CAL. EQUAL ACCESS GROUP

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25 By: /s/ Jason J. Kim
26 Jason J. Kim, Esq.
27 Attorneys for Plaintiff
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